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July 19, 2018

Regional Freedom of Information Officer
U.S. EPA, Region 4
AFC Building
61 Forsyth Street., S.W., 9th Floor (4PM/IF)
Atlanta, GA 30303-8960
VIA CERTIFIED MAIL

Re: Floyds Fork TMDL modeling and development

To Whom It May Concern:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552, I, Jeff Frank, a concerned citizen that uses and recreates on Floyds Fork, which flows through Henry, Oldham, Jefferson, and Bullitt Counties, Kentucky, hereby request that your office produce within 20 business days the following records:

- 1) All records, including but not limited to emails, notes, reports, and memoranda, reflecting, discussing, or otherwise relating to communications between the U.S. Environmental Protection Agency Headquarters, U.S. EPA Region 4, the Kentucky Energy and Environment Cabinet, Kentucky Division of Water, Louisville/Jefferson County Metropolitan Sewer District (MSD), and Kentucky Farm Bureau regarding nutrient *and* pathogen Total Maximum Daily Load (TMDL) modeling, development, and monitoring for Floyds Fork since January 1, 2012.
- 2) All records, including but not limited to notes, reports, models, data, orders, findings, and memoranda regarding Floyds Fork nutrient *and* pathogen TMDL modeling, development, and monitoring since January 1, 2012.
- 3) All calendars, agendas, manifests, schedules, notes, lists of attendees, or other records reflecting or relating to meetings regarding contacts between individuals, organizations, and agencies connected with nutrient *and* pathogen TMDL modeling, development, and monitoring for Floyds Fork since January 1, 2012; and
- 4) In addition to the records requested above, we also request records describing the processing of this request, including records sufficient to identify search terms used and locations and custodians searched, and any tracking sheets

used to track the processing of this request. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

For efficiency purposes, we recommend the FOIA records custodian consult with Gracie Danois, U.S. EPA Region 4 TMDL Section Chief (email: danois.gracy@epa.gov, phone: 404-562-9119), as she has worked with me on these issues over the past several years.

FEE WAIVER

FOIA provides that any fees associated with a request are waived if “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). I work to maintain and protect Floyds Fork, the largest watershed in Jefferson County, Kentucky. This request is submitted in consort with my mission to protect Floyds Fork, a vital tributary that remains one of the most polluted waterways in Louisville, that is likely to contribute significantly to the public’s ability to enjoy the fork and the area surrounding it. This request satisfies the EPA’s requirements for a fee waiver in 28 C.F.R. § 16.10(k)(2)(i) through (iii):

- 1) The requested information would shed light on the operations or activities of the government because the records requested are communications between federal and state agencies in regard to Floyds Fork TMDL modeling and development;
- 2) The records requested by me are in the public interest and would contribute to a greater understanding by the public of the ongoing efforts to maintain and protect Floyds Fork. *See Citizens for Responsibility and Ethics in Washington v. U.S. Dept. of Justice*, 602 F. Supp. 2d 121 (D.C. Cir. 2009); and
- 3) I have no commercial interests that would be furthered by the requested disclosure.

In addition to satisfying the requirements for a waiver of fees associated with the search and processing of records, I am entitled to a waiver of all fees except “reasonable standard charges for document duplication.” 5 U.S.C. § 552(a)(4)(A)(ii)(II).

RESPONSIVE RECORDS

I ask that all types of records and all records systems be searched to discover records responsive to my request. I seek records in all media and formats. This includes, but is not limited to: agendas, manifests, calendars, schedules, notes, and any prepared

documentation for meetings, calls, teleconferences, or other discussions responsive to our request; voicemails; emails; email attachments; talking points; faxes; training documents and guides; tables of contents of binders; documents pertaining to instruction and coordination of couriers; and any other materials. However, you need not produce press clippings and news articles that are unaccompanied by any commentary (e.g., an email forwarding a news article with no additional commentary in the email thread).

I ask that you search your records from all components of the U.S. Environmental Protection Agency Headquarters and U.S. EPA Region 4, that may be reasonably likely to produce results. Also, I ask that you search all systems of record, including electronic and paper, in use at your agency as well as files or emails in the personal custody of your employees, such as personal email accounts, as required by FOIA and to the extent that they are reasonably likely to contain responsive records. I would prefer records in electronic format, saved as PDF documents, and transmitted via email or CD-ROM.

If you make a determination that any responsive record, or any segment within a record, is exempt from disclosure, please provide an index of those records at the time you transmit all other responsive records. In the index, please include description of the record and the reason the record for exclusion with respect to each individual exempt record or exempt portion of a record, as provided by *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), cert denied, 415 U.S. 977 (1974). When you deem a portion of a record exempt, I ask that the remainder of the records to be provided, as required by 5 U.S.C. § 552(b).

Given the 20-day statutory deadline, I hope to be as helpful as possible in clarifying or answering questions about my request. Please contact me at jeffreyericfrank@gmail.com or (502-552-3920) if you require any additional information. I appreciate your cooperation and look forward to hearing from you very soon.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Frank', with a stylized, looping flourish at the end.

Jeff Frank
Organizer, Friends of Floyds Fork

cc: Gracie Danois, U.S. EPA Region 4 TMDL Section Chief
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Atlanta, GA 30303-8960
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